

**REMARKS/ARGUMENTS**

Prior to the entry of the Amendment, claims 3-6 and 9-36 were pending in this application. Claim 5 has been amended. Applicant submits that support for the claim can be found in the specification and the figures and no new subject matter has been introduced by the amendment. No claims have been added or canceled. Therefore, claims 3-6 and 9-36 remain pending in this application. Applicant respectfully requests reconsideration for at least the reasons presented below.

**35 U.S.C. § 103(a) Rejection, Hanagan in view of Farhat, et al.**

The Office Action has rejected claims 3-6 and 9-36 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0056362 of Hanagan et al. (hereinafter "Hanagan") in view of U.S. Patent Application Publication No. 2001/0034704 of Farhat et al. (hereinafter "Farhat"). The Applicant respectfully submits that the Office Action does not establish a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, the Office Action must establish: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine their teachings; 2) a reasonable expectation of success of such a modification or combination; and 3) a teaching or suggestion in the cited prior art of each claimed limitation. (See MPEP §706.02(j))

As will be discussed below, the references cited by the Office Action do not teach or suggest each claimed limitation. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify these references.

Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination.

Hanagan is directed to a convergent customer care and billing system for telecommunications providers that "is capable of providing billing related information to customers for all of a customers [*sic*] electronic transmissions..." (page 1, para. 3) As part of this system, Hanagan discloses two components related to rating and billing: (1) an "Event Rater and Pricer" (hereinafter "ERP") that "accepts and processes network and non-network events to produce bill-ready events (a billable event record that has been completely rated... )..." (page 12, para. 196), and (2) a "Customer Billing Manager" (hereinafter "CBM") that processes already-rated events to generate bills and reports. (See page 3, para. 79) The ERP component collects events by "polling" or "scanning" network devices for a batch event data file "at user-defined intervals." (page 12, para. 197) ERP then rates the events contained in the batch file. (See page 12, para. 197) According to Hanagan, this batched rating process is considered "near real-time." (page 3, para. 79) The CBM component operates on rated events produced by ERP to perform its processing. (See page 3, para. 79)

However, Hanagan does not teach or suggest rating events in real-time by (1) receiving at a processor a billing event for an account, wherein the billing event is triggered by a user action (such as a wireless phone call), and wherein the billing event is received at the processor at the time of the user action, and (2) rating the billing event using the processor upon receipt. Rather, as discussed above, the ERP component (i.e. rating processor) of Hanagan receives and rates batches of events at specified intervals, regardless of when the user actions triggering those events occurred. Thus, the ERP component does not receive and rate a billing event at the time of a triggering user action. Furthermore, the CBM component operates only on already-rated events that have been previously processed by ERP: "the only calculations carried out in CBM 18 are summarizing and calculation of totals, other calculations such as pricing and discounting are done in ERP (Event Rater and Pricer) 16." (page 15, para. 232) Thus, the CBM

component cannot be considered a processor that receives a billing event, and then rates the billing event upon receipt.

As stated in the Office Action, Hanagan also does not teach or suggest the concept of rating an event by determining a current tier reservoir, comparing the event quantity to the current tier reservoir, and if the event quantity is less than the tier reservoir, adjusting an account balance responsive to the current tier and the event quantity.

Farhat relates to a method of "facilitat[ing] financial settlement of service access transactions between multiple parties." (page 1, para. 8) Farhat discloses that accounting records are "communicated, in near real-time, to the transaction server 48 utilizing SSL... these accounting records are further processed by the settlement system 53 to produce Call Detail Records (CDRs)." (page 4, para. 65) Farhat further discloses that "the settlement system 53 operates to provide near real-time settlement of service access transactions to allow for the near real-time revenue and account tracking by both providers 32 and customers 36." (page 5, para. 76). Thus, like Hanagan, the invention of Farhat does not process transaction or events in real-time.

Farhat also discloses the use of "usage limits" and "usage counters" to validate the selection of a usage or transaction rate for a service access transaction. Farhat explains that "usage limits (start/end) are checked against respective usage counters in user account and account cycles incremented with the transaction duration for the end of user level conditions. The level of a user limit condition is specified in a rate record..." (page 8, para. 143) That is, Farhat compares a specified limit value with the current accumulated usage of an account to determine whether a limit condition for the account has been tripped. Farhat goes on to explain that "if a transaction causes the accumulated usage to exceed a specified usage limit, two sets of rates may be applied." (page 8, para. 143)

However, Farhat does not teach or suggest rating events in real-time by (1) receiving at a processor a billing event for an account, wherein the billing event is triggered by a user action, and wherein the billing event is received at the processor at the time of the user action, and (2) rating the billing event using the processor upon receipt. Rather Farhat teaches processing transactions in *near* real-time. Thus, Farhat does not teach or suggest receiving and rating a billing event at the time of a triggering user action.

Farhat also does not teach or suggest the concept of rating an event by determining a current tier reservoir, comparing the event quantity to the current tier reservoir, and if the event quantity is less than the tier reservoir, adjusting an account balance responsive to the current tier and the event quantity. First, nowhere does Farhat teach or suggest the step of determining a current tier reservoir. As recited in independent claim 5, the current tier reservoir is the "distance to a next step point on a rating curve." (*See also* Specification, page 10, lines 13-14) This reservoir changes dynamically based upon the current accumulated usage of an account, and is determined by taking the difference between the next step point and the current accumulated usage. (*See* Specification, page 10, lines 14-19) As can be best understood from Farhat, a usage limit is a fixed value that signals a limit condition, and a usage counter is simply the accumulated usage of an account or account cycle. Therefore neither correspond to a current tier reservoir. Second, nowhere does Farhat teach or suggest the step of comparing the current tier reservoir to the event quantity. As recited in independent claim 5, an event quantity is "an amount of the event." (*See also* Specification, page 7, line 19) Although Farhat checks usage limits against usage counters, a usage limit (a value specified in a rate record) is neither a current tier reservoir nor an event quantity. Similarly, a usage counter (the accumulated usage of an account) is neither a current tier reservoir nor an event quantity. Thus, Farhat does not teach or suggest determining a current tier reservoir, comparing the event quantity to the current tier reservoir, and if the event quantity is less than the tier reservoir, adjusting an account balance responsive to the current tier and the event quantity.

Claim 5, upon which claims 3, 4, and 9-36 depend, recites in part "receiving at a processor a billing event for an account, wherein the billing event is triggered by a user action, and wherein the billing event is received at the processor at the time of the user action;... rating the billing event using the processor upon receiving the billing event;... determining a current tier responsive to the current accumulated usage information; determining a current tier reservoir, wherein the current tier reservoir is a distance to a next step point on a rating curve; comparing the event quantity to the current tier reservoir; and if the event quantity is less than the tier reservoir, adjusting an account balance responsive to the current tier and the event quantity." The combination of Hanagan and Farhat is no more relevant to the pending claims as either reference taken alone since, neither reference, alone or in combination, teaches or suggests, receiving a billing event at a processor for an account, wherein the billing event is triggered by a user action, and wherein the billing event is received at the processor at the time of the user action; rating the billing event using the processor upon receiving the billing event; determining a current tier responsive to the current accumulated usage information; determining a current tier reservoir, wherein the current tier reservoir is a distance to a next step point on a rating curve; comparing the event quantity to the current tier reservoir; and if the event quantity is less than the tier reservoir, adjusting an account balance responsive to the current tier and the event quantity. Hanagan discloses (1) an ERP component that receives and rates batches of events at specified intervals, rather than at the time user actions occur, and (2) a CBM component that receives, but does not rate, events. Farhat discloses (1) a method for processing events in near real-time, rather than real-time, and (2) discloses a method of checking user limits against usage counters that does not correspond to either determining a current tier reservoir or comparing an event quantity to a current tier reservoir. For at least these reasons, claims 3-5 and 9-36 should be allowed.

Claim 6 was rejected as being dependent on a rejected base claim, but deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant submits that claim 6 was previously presented in

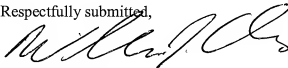
independent form in the Amendment filed on October 14, 2005. Thus, the Applicant submits that claim 6, as previously presented, is in a condition for allowance.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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